

UNOFFICIAL COPY OF HOUSE BILL 741
D4 5lr1821

By: **Delegates Sophocleus, Barkley, Bobo, Boschert, Cadden, Cane, V. Clagett, Conway, DeBoy, Dumais, Elmore, Gilleland, King, Leopold, Love, McComas, Menes, Parker, Petzold, Rosenberg, Sossi, and F. Turner**

Introduced and read first time: February 9, 2005
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 8, 2005

CHAPTER _____

1 AN ACT concerning

2 Family Law - Local Domestic Violence Fatality Review Teams

3 FOR the purpose of exempting a certain person acting within the scope of the
4 jurisdiction of a certain local domestic violence fatality review team from civil
5 liability under certain circumstances; authorizing the establishment of local
6 domestic violence fatality review teams; authorizing certain persons to organize
7 a local team; establishing the membership of a local team; requiring a local team
8 to elect a chair; establishing the purposes and duties of a local team; authorizing
9 a local team to investigate certain cases of domestic violence under certain
10 circumstances; requiring certain persons to provide a local team review certain
11 criminal cases at a certain time; establishing that a local team shall be provided
12 with certain information and records under certain circumstances; establishing
13 that certain meetings of a local team are closed to the public under certain
14 circumstances; establishing that certain meetings of a local team are open to the
15 public under certain circumstances; prohibiting the disclosure of certain
16 information during a public meeting; making certain information confidential
17 under certain circumstances; prohibiting the questioning in any civil or criminal
18 proceeding of certain persons regarding certain information; authorizing a
19 certain person to testify to certain information under certain circumstances;
20 providing that certain information and records of a local team are not subject to
21 subpoena or discovery in certain court proceedings under certain circumstances;
22 providing that certain information, documents, and records are not immune
23 from subpoena, discovery, or introduction into evidence solely because of certain
24 circumstances; requiring a health care provider to disclose a medical record to a
25 local team under certain circumstances; establishing certain criminal penalties;

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1 defining certain terms; and generally relating to local domestic violence fatality
2 review teams.

3 BY repealing and reenacting, without amendments,

4 Article - Criminal Law

5 Section 3-201(a) and (c)

6 Annotated Code of Maryland

7 (2002 Volume and 2004 Supplement)

8 BY adding to

9 Article - Courts and Judicial Proceedings

10 Section 5-637.1

11 Annotated Code of Maryland

12 (2002 Replacement Volume and 2004 Supplement)

13 BY repealing and reenacting, without amendments,

14 Article - Family Law

15 Section 1-101(b), 4-501(b)(1), and 4-515(a), (b), and (d)

16 Annotated Code of Maryland
17 (2004 Replacement Volume)
18 BY adding to
19 Article - Family Law
20 Section 4-701 through 4-707, inclusive, to be under a new subtitle "Subtitle 7."
21 Local Domestic Violence Fatality Review Teams"
22 Annotated Code of Maryland
23 (2004 Replacement Volume)
24 BY repealing and reenacting, with amendments,
25 Article - Health - General
26 Section 4-306(b)(8) and (9)
27 Annotated Code of Maryland
28 (2000 Replacement Volume and 2004 Supplement)
29 BY adding to
30 Article - Health - General
31 Section 4-306(b)(10)
32 Annotated Code of Maryland
33 (2000 Replacement Volume and 2004 Supplement)
34 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
35 MARYLAND, That the Laws of Maryland read as follows:

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1 Article - Criminal Law

2 3-201.

3 (a) In this subtitle the following words have the meanings indicated.

4 (c) "Serious physical injury" means physical injury that:

5 (1) creates a substantial risk of death; or

6 (2) causes permanent or protracted serious:

7 (i) disfigurement;

8 (ii) loss of the function of any bodily member or organ; or

9 (iii) impairment of the function of any bodily member or organ.

10 Article - Courts and Judicial Proceedings

11 5-637.1.

12 (A) IN THIS SECTION, "LOCAL DOMESTIC VIOLENCE FATALITY REVIEW TEAM"
13 IS A TEAM ESTABLISHED IN ACCORDANCE WITH TITLE 4, SUBTITLE 7 OF THE FAMILY
14 LAW ARTICLE.

15 (B) A PERSON WHO ACTS IN GOOD FAITH AND WITHIN THE SCOPE OF THE
16 JURISDICTION OF A LOCAL DOMESTIC VIOLENCE FATALITY REVIEW TEAM IS NOT
17 CIVILLY LIABLE FOR ANY ACTION AS A MEMBER OF THE LOCAL DOMESTIC VIOLENCE
18 FATALITY REVIEW TEAM OR FOR GIVING INFORMATION TO, PARTICIPATING IN, OR
19 CONTRIBUTING TO THE FUNCTION OF THE LOCAL DOMESTIC VIOLENCE FATALITY
20 REVIEW TEAM.

21 Article - Family Law

22 1-101.

23 (b) "County" means a county of this State and, unless expressly provided
24 otherwise, Baltimore City.

25 4-501.

26 (b) (1) "Abuse" means any of the following acts:

27 (i) an act that causes serious bodily harm;

28 (ii) an act that places a person eligible for relief in fear of imminent
29 serious bodily harm;

30 (iii) assault in any degree;

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1 (iv) rape or sexual offense under §§ 3-303 through 3-308 of the

2 Criminal Law Article or attempted rape or sexual offense in any degree; or

3 (v) false imprisonment.

4 4-515.

5 (a) (1) The Secretary shall establish a program in the Department of
6 Human Resources to help victims of domestic violence and their children.

7 (2) The purpose of the program is to provide for victims of domestic
8 violence and their children, in each region of this State:

9 (i) temporary shelter or help in obtaining shelter;

10 (ii) counseling;

11 (iii) information;

12 (iv) referral; and

13 (v) rehabilitation.

14 (b) As a part of the domestic violence program, there shall be, in a major
15 population center of this State, at least 1 program serving the area.

16 (d) (1) As funds become available, the Secretary may extend the domestic
17 violence program to other areas in this State.

18 (2) Expansion of the domestic violence program may include:

19 (i) establishing additional shelters; or

20 (ii) providing funds and technical assistance to a local organization

21 or agency that shows that it is able and willing to run a domestic violence program.

22 SUBTITLE 7. LOCAL DOMESTIC VIOLENCE FATALITY REVIEW TEAMS.

23 4-701.

24 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
25 INDICATED.

26 (B) "ABUSE" HAS THE MEANING STATED IN § 4-501(B)(1) OF THIS ARTICLE.

27 (C) "DOMESTIC VIOLENCE" MEANS ABUSE OCCURRING BETWEEN:

28 (1) CURRENT OR FORMER SPOUSES OR COHABITANTS;

29 (2) PERSONS WHO HAVE A CHILD IN COMMON; OR

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1 (3) PERSONS CURRENTLY OR FORMERLY INVOLVED IN A DATING
2 RELATIONSHIP.

3 (D) "DOMESTIC VIOLENCE PROGRAM" IS A PROGRAM ESTABLISHED IN
4 ACCORDANCE WITH § 4-515 OF THIS ARTICLE.

5 (E) "LOCAL TEAM" MEANS THE MULTIDISCIPLINARY AND MULTIAGENCY
6 DOMESTIC VIOLENCE FATALITY REVIEW TEAM ESTABLISHED FOR A COUNTY IN
7 ACCORDANCE WITH THIS SUBTITLE.

8 (F) "SERIOUS PHYSICAL INJURY" HAS THE MEANING STATED IN § 3-201 OF
9 THE CRIMINAL LAW ARTICLE.
10 4-702.

11 (A) A COUNTY IS AUTHORIZED TO ESTABLISH A DOMESTIC VIOLENCE
12 FATALITY REVIEW TEAM.

13 (B) IN A COUNTY, THE STATE'S ATTORNEY, THE HEAD OF THE PRIMARY LAW
14 ENFORCEMENT AGENCY, OR THE DIRECTOR OF THE DOMESTIC VIOLENCE PROGRAM
15 MAY ORGANIZE A LOCAL TEAM.

16 4-703.

17 (A) THE MEMBERS OF A LOCAL TEAM SHALL BE DRAWN FROM THE
18 FOLLOWING PERSONS, ORGANIZATIONS, AGENCIES, AND AREAS OF EXPERTISE,
19 FROM WITHIN THE COUNTY, AS AVAILABLE:

20 (1) DOMESTIC VIOLENCE SERVICE PROVIDERS;

21 (2) LAW ENFORCEMENT AGENCIES;

22 (3) THE STATE'S ATTORNEY'S OFFICE;

23 (4) THE LOCAL HEALTH DEPARTMENT;

24 (5) THE LOCAL DEPARTMENT OF SOCIAL SERVICES;

25 (6) THE DOMESTIC VIOLENCE COORDINATING COUNCIL;

26 (7) BATTERER INTERVENTION SERVICES PROVIDERS;

27 (8) THE DEPARTMENT DIVISION OF PAROLE AND PROBATION;

28 (9) HOSPITALS;

29 (10) JUDGES OF THE DISTRICT COURT AND CIRCUIT COURTS;

30 (11) CLERKS OF THE DISTRICT COURT AND CIRCUIT COURTS;

31 (12) THE CHIEF MEDICAL EXAMINER'S OFFICE;

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1 (13) SURVIVORS OF DOMESTIC VIOLENCE; AND

2 (14) ANY OTHER PERSON NECESSARY TO THE WORK OF THE LOCAL
3 TEAM, RECOMMENDED BY THE LOCAL TEAM.

4 (B) THE MEMBERS DESCRIBED UNDER SUBSECTION (A)(1) THROUGH (12) OF
5 THIS SECTION MAY DESIGNATE REPRESENTATIVES FROM THEIR DEPARTMENTS OR
6 OFFICES TO REPRESENT THEM ON THE LOCAL TEAM.

7 (C) EACH LOCAL TEAM SHALL ELECT A CHAIR BY MAJORITY VOTE FROM
8 AMONG ITS MEMBERS.

9 4-704.

10 (A) THE PURPOSE OF A LOCAL TEAM IS TO PREVENT DEATHS RELATED TO
11 DOMESTIC VIOLENCE BY:

12 (1) PROMOTING COOPERATION AND COORDINATION AMONG AGENCIES
13 INVOLVED IN:

14 (I) INVESTIGATING DEATHS RELATED TO DOMESTIC VIOLENCE;

15 OR

16 (II) PROVIDING SERVICES TO VICTIMS OF DOMESTIC VIOLENCE,
17 ABUSERS, OR SURVIVING FAMILY MEMBERS;

18 (2) DEVELOPING AN UNDERSTANDING OF THE CAUSES AND INCIDENCE
19 OF DEATHS RELATED TO DOMESTIC VIOLENCE IN THE COUNTY; AND

20 (3) DEVELOPING PLANS FOR AND RECOMMENDING CHANGES WITHIN
21 THE AGENCIES THE MEMBERS REPRESENT.

22 (B) TO ACHIEVE ITS PURPOSE, A LOCAL TEAM SHALL:

23 (1) ESTABLISH AND IMPLEMENT A PROTOCOL FOR THE LOCAL TEAM;

24 (2) AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, REVIEW
25 FATALITIES AND CASES OF SERIOUS PHYSICAL INJURY RELATED TO DOMESTIC
26 VIOLENCE THAT HAVE OCCURRED IN THE COUNTY;

27 (3) MEET ON A REGULAR BASIS AS DETERMINED BY THE LOCAL TEAM,
28 AT LEAST ANNUALLY, TO:

29 (I) REVIEW THE STATUS OF DOMESTIC VIOLENCE FATALITY CASES
30 IN THE COUNTY;

31 (II) RECOMMEND ACTIONS TO IMPROVE COORDINATION OF
32 SERVICES AND INVESTIGATIONS AMONG MEMBER AGENCIES; AND

33 (III) RECOMMEND ACTIONS WITHIN THE MEMBER AGENCIES TO
34 PREVENT DEATHS RELATED TO DOMESTIC VIOLENCE; AND

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1 (4) PROVIDE REPORTS THAT INCLUDE RECOMMENDATIONS:

2 (I) TO IMPROVE COORDINATION OF SERVICES AND
3 INVESTIGATIONS;

4 (II) TO IMPLEMENT CHANGES RECOMMENDED BY THE LOCAL
5 TEAM WITHIN MEMBER AGENCIES; AND

6 (III) ON NEEDED CHANGES TO STATE AND LOCAL LAW, POLICY, AND
7 PRACTICE TO PREVENT DEATHS RELATED TO DOMESTIC VIOLENCE.

8 (C) (1) IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, A
9 LOCAL TEAM SHALL DETERMINE THE NUMBER AND TYPES OF CASES THE TEAM
10 WILL REVIEW.

11 (2) A LOCAL TEAM MAY REVIEW CRIMINAL CASES ONLY AT THE
12 CONCLUSION OF THE CASE IN TRIAL COURT OR AFTER THE INVESTIGATION OF A
13 SUICIDE HAS BEEN CLOSED.

14 4-705.

15 ON REQUEST OF THE CHAIR OF A LOCAL TEAM AND AS NECESSARY TO CARRY
16 OUT THE LOCAL TEAM'S PURPOSE AND DUTIES UNDER THIS SUBTITLE, THE LOCAL
17 TEAM SHALL BE IMMEDIATELY PROVIDED:

18 (1) WITH ACCESS TO INFORMATION AND RECORDS BY A PROVIDER OF
19 MEDICAL CARE, INCLUDING DENTAL AND MENTAL HEALTH CARE, REGARDING A

20 PERSON WHOSE DEATH OR SERIOUS PHYSICAL INJURY IS BEING REVIEWED BY THE
21 LOCAL TEAM; AND
22 (2) ACCESS TO ALL INFORMATION AND RECORDS MAINTAINED BY ANY
23 STATE OR LOCAL GOVERNMENT AGENCY, INCLUDING BIRTH CERTIFICATES, LAW
24 ENFORCEMENT INVESTIGATIVE INFORMATION, MEDICAL EXAMINER INVESTIGATIVE
25 INFORMATION, PAROLE AND PROBATION INFORMATION AND RECORDS, AND
26 INFORMATION AND RECORDS OF A SOCIAL SERVICES AGENCY THAT PROVIDED
27 SERVICES TO THE PERSON OR THE PERSON'S FAMILY.
28 4-706.

29 (A) MEETINGS OF A LOCAL TEAM SHALL BE CLOSED TO THE PUBLIC AND NOT
30 SUBJECT TO TITLE 10, SUBTITLE 5 OF THE STATE GOVERNMENT ARTICLE WHEN THE
31 LOCAL TEAM IS DISCUSSING INDIVIDUAL CASES.

32 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, MEETINGS OF
33 A LOCAL TEAM SHALL BE OPEN TO THE PUBLIC AND SUBJECT TO TITLE 10, SUBTITLE
34 5 OF THE STATE GOVERNMENT ARTICLE WHEN THE LOCAL TEAM IS NOT DISCUSSING
35 INDIVIDUAL CASES.

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1 (C) (1) INFORMATION IDENTIFYING A DECEASED PERSON, A FAMILY
2 MEMBER, OR AN ALLEGED OR SUSPECTED PERPETRATOR OF ABUSE MAY NOT BE
3 DISCLOSED DURING A PUBLIC MEETING.

4 (2) INFORMATION REGARDING THE INVOLVEMENT OF ANY AGENCY,
5 ORGANIZATION, OR PERSON WITH A DECEASED PERSON OR THE PERSON'S FAMILY
6 MAY NOT BE DISCLOSED DURING A PUBLIC MEETING.

7 (D) THIS SECTION DOES NOT PROHIBIT A LOCAL TEAM FROM REQUESTING
8 THE ATTENDANCE AT A TEAM MEETING OF A PERSON WHO HAS INFORMATION
9 RELEVANT TO THE EXERCISE OF THE TEAM'S PURPOSE AND DUTIES UNDER THIS
10 SUBTITLE.

11 (E) A VIOLATION OF THIS SECTION IS A MISDEMEANOR AND IS PUNISHABLE
12 BY A FINE NOT EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 90 DAYS OR
13 BOTH.
14 4-707.

15 (A) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, ALL
16 INFORMATION AND RECORDS ACQUIRED BY A LOCAL TEAM IN THE EXERCISE OF ITS
17 PURPOSE AND DUTIES UNDER THIS SUBTITLE:

18 (1) ARE CONFIDENTIAL;

19 (2) ARE EXEMPT FROM DISCLOSURE UNDER TITLE 10, SUBTITLE 6 OF
20 THE STATE GOVERNMENT ARTICLE; AND

21 (3) MAY ONLY BE DISCLOSED AS NECESSARY TO CARRY OUT THE LOCAL
22 TEAM'S DUTIES AND PURPOSES.

23 (B) STATISTICAL COMPILATIONS OF DATA THAT DO NOT CONTAIN ANY
24 INFORMATION THAT WOULD PERMIT THE IDENTIFICATION OF ANY PERSON TO BE
25 ASCERTAINED ARE PUBLIC RECORDS.

26 (C) REPORTS OF A LOCAL TEAM THAT DO NOT CONTAIN ANY INFORMATION
27 THAT WOULD PERMIT THE IDENTIFICATION OF ANY PERSON TO BE ASCERTAINED
28 ARE PUBLIC INFORMATION.

29 (D) EXCEPT AS NECESSARY TO CARRY OUT A LOCAL TEAM'S PURPOSE AND
30 DUTIES UNDER THIS SUBTITLE, MEMBERS OF A LOCAL TEAM AND PERSONS
31 ATTENDING A LOCAL TEAM MEETING MAY NOT DISCLOSE:

32 (1) WHAT TRANSPIRED AT A MEETING CLOSED TO THE PUBLIC UNDER §
33 4-706 OF THIS SUBTITLE; OR

34 (2) ANY INFORMATION THE DISCLOSURE OF WHICH IS PROHIBITED BY
35 THIS SECTION.

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1 (E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
2 MEMBERS OF A LOCAL TEAM, PERSONS ATTENDING A LOCAL TEAM MEETING, AND
3 PERSONS WHO PRESENT INFORMATION TO A LOCAL TEAM MAY NOT BE QUESTIONED

4 IN ANY CIVIL OR CRIMINAL PROCEEDING REGARDING INFORMATION PRESENTED IN
5 OR OPINIONS FORMED AS A RESULT OF A MEETING.

6 (2) A PERSON MAY TESTIFY TO INFORMATION OBTAINED
7 INDEPENDENTLY OF THE LOCAL TEAM OR THAT IS PUBLIC INFORMATION.

8 (F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
9 INFORMATION, DOCUMENTS, AND RECORDS OF A LOCAL TEAM ARE NOT SUBJECT TO
10 SUBPOENA, DISCOVERY, OR INTRODUCTION INTO EVIDENCE IN ANY CIVIL OR
11 CRIMINAL PROCEEDING.

12 (2) INFORMATION, DOCUMENTS, AND RECORDS OTHERWISE AVAILABLE
13 FROM OTHER SOURCES ARE NOT IMMUNE FROM SUBPOENA, DISCOVERY, OR
14 INTRODUCTION INTO EVIDENCE THROUGH THOSE SOURCES SOLELY BECAUSE THEY
15 WERE PRESENTED DURING PROCEEDINGS OF A LOCAL TEAM OR ARE MAINTAINED
16 BY A LOCAL TEAM.

17 (G) A VIOLATION OF THIS SECTION IS A MISDEMEANOR AND IS PUNISHABLE
18 BY A FINE NOT EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 90 DAYS OR
19 BOTH.

20 **Article - Health - General**

21 4-306.

22 (b) A health care provider shall disclose a medical record without the
23 authorization of a person in interest:

24 (8) To the Maryland Insurance Administration when conducting an
25 investigation or examination pursuant to Title 2, Subtitle 2 of the Insurance Article,
26 provided that the Insurance Administration has written procedures to maintain the
27 confidentiality of the records; [or]

28 (9) To a State or local child fatality review team established under Title
29 5, Subtitle 7 of this article as necessary to carry out its official functions; OR

30 (10) TO A LOCAL DOMESTIC VIOLENCE FATALITY REVIEW TEAM
31 ESTABLISHED UNDER TITLE 4, SUBTITLE 7 OF THE FAMILY LAW ARTICLE AS
32 NECESSARY TO CARRY OUT ITS OFFICIAL FUNCTIONS.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

34 July 1, 2005